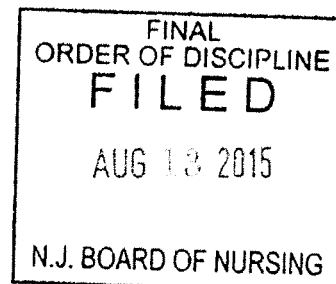
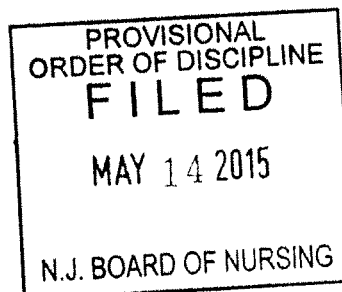


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STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
BOARD OF NURSING

IN THE MATTER OF THE LICENSE OF	:	Administrative Action
	:	
	:	<input checked="" type="checkbox"/> PROVISIONAL ORDER
	:	OF DISCIPLINE
	:	
JAMES S. DUNNE, RN, CHHA	:	<input checked="" type="checkbox"/> FINAL ORDER
RN # 26NR16580900	:	OF DISCIPLINE
CHHA # 26NH09134800	:	(Finalized by default
	:	on <u>August 13, 2015</u> )
TO PRACTICE NURSING IN THE	:	
STATE OF NEW JERSEY	:	

This matter was opened to the New Jersey State Board of Nursing ("Board") upon receipt of information which the Board has reviewed and upon which the following preliminary findings of fact and conclusions of law are made:

FINDINGS OF FACT

1. James S. Dunne ("Respondent") is a Registered

Professional Nurse (RN) in the State of New Jersey and has been a licensee at all relevant times. Respondent also holds a certificate as a Homemaker-Home Health Aide, which certificate has been expired since November 30, 2005. (Exhibit A).

2. Upon receipt of information that Respondent was arrested on September 25, 2014 by members of the Milltown police department and charged with violating N.J.S.A. 2C:20-11B(1) (Take Merchandise From Store), N.J.S.A. 2C:20-11B(2) (Conceal Merchandise From Store), and N.J.S.A. 2C:36-2 (Possession of Drug Paraphernalia), Agency Case #2014-09785, the Board sent Respondent a letter of inquiry, to his mailing address in Somerset, New Jersey, via regular and certified mail, seeking information regarding his nursing employment, continuing education, and the arrest/criminal case. The regular mailing was not returned. The certified mail receipt was signed upon delivery. (Exhibit B).

3. The Board received a letter on behalf of Respondent indicating that Respondent was in treatment and that Respondent would respond upon his discharge. (Exhibit C).<sup>1</sup> The Board received no further response.

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<sup>1</sup>Due to federal privacy concerns, the letter is not attached as an exhibit.

4. The Board received information that on January 8, 2015 Respondent was found guilty in Milltown Borough Municipal Court of violating N.J.S.A. 2C:20-11B(1) (Take Merchandise From Store), and was sentenced to one year probation and five days community service and was assessed \$558.00. The charges of violating N.J.S.A. 2C:20-11B(2) (Conceal Merchandise From Store), and N.J.S.A. 2C:36-2 (Possession of Drug Paraphernalia) were dismissed. (Exhibit D).

5. In January 2015, the Board received information that Respondent had been discharged from in-patient treatment and had discontinued participation with the Professional Assistance Program, supposedly to transfer to the Board's designated intervention program - the Recovery and Monitoring Program (RAMP). (Exhibit E).<sup>2</sup>

6. In April 2015, the Board received information that Respondent contacted RAMP, but failed to enroll or begin participation with the program. (Exhibit F).

#### CONCLUSIONS OF LAW

Respondent's failure to respond to the Board's inquiry constitutes a failure to cooperate with a Board investigation, in contravention of N.J.A.C. 13:45C-1.2 and 1.3, which the Board

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<sup>2</sup>Due to federal privacy concerns, the letter is not attached as an exhibit.

deems professional misconduct within the meaning of N.J.S.A. 45:1-21(e), and also subjects Respondent to disciplinary action pursuant to N.J.S.A. 45:1-21(h).

Respondent's January 8, 2015 conviction of taking merchandise from a store subjects Respondent to discipline pursuant to N.J.S.A. 45:1-21(f) in that Respondent has been convicted of, or engaged in acts constituting, a crime or offense relating adversely to nursing. Taking merchandise from a store is adverse to the practice of nursing because nurses care for vulnerable populations whom may be unable to safeguard their personal belongings while under the care of a nurse. The public expects nurses to be trustworthy and Respondent's conviction for taking merchandise from a store erodes that trust.

Lastly, Respondent's drug related arrest, followed by inpatient treatment, followed by cessation of participation in any assistance or intervention program, raises sufficient concern such that testing, monitoring, evaluation, and treatment are warranted, as a condition for continued or reinstated licensure, to evaluate whether Respondent's continued practice as a nurse may jeopardize the safety and welfare of the public pursuant to N.J.S.A. 45:1-22(f) and to ensure that Respondent

can properly discharge nursing functions pursuant to N.J.S.A.  
45:1-22(e).

ACCORDINGLY, IT IS on this 14<sup>th</sup> day of May, 2015  
ORDERED that upon the filing of a FINAL ORDER OF DISCIPLINE in  
this matter:

1. Respondent's license to practice nursing and  
certificate to practice as a Homemaker-Home Health Aide are  
suspended for a minimum of six months and until Respondent  
provides all the requested information in the Board's October 9,  
2014 letter of inquiry and demonstrates, to the satisfaction of  
the Board, that he is fit, competent, and rehabilitated.

2. The Board will not entertain an application for  
reinstatement from Respondent unless and until Respondent  
completes a comprehensive mental health and substance abuse  
evaluation under the auspices of RAMP, demonstrates that he is  
fit and competent to practice nursing, that he is in full  
compliance with any agreement with RAMP, that RAMP supports his  
return to practice, and provides all requested information  
regarding his arrest and conviction. Upon reinstatement,  
Respondent's license shall be placed on probation for a minimum  
of six months.

3. By undergoing evaluation, Respondent expressly waives

any claim of privilege or confidentiality that he may have concerning RAMP reports and disclosures to the Board, and use by the Board of that information in any proceedings.

4. All costs associated with the evaluation, monitoring, and/or treatment outlined above shall be the responsibility of, and paid directly by, Respondent.

5. A civil penalty in the total amount of one thousand dollars (\$1000) is imposed upon Respondent, which includes a five hundred dollar (\$500) civil penalty for violation of N.J.S.A. 45:1-21(e) and a five hundred dollar (\$500) civil penalty for violation of N.J.S.A. 45:1-21(f). Payment shall be made by certified check or money order payable to the "State of New Jersey," delivered to George Hebert, Executive Director, State of Board of Nursing, P.O. Box 45010, Newark, New Jersey 07101. Payment shall be made no later than fifteen (15) days after the entry of any Final Order of Discipline in this matter. In the event Respondent fails to make a timely payment, a certificate of debt shall be filed in accordance with N.J.S.A. 45:1-24 and the Board may bring such other proceedings as authorized by law.

6. Upon finalization of this Order, Respondent shall refrain from practicing nursing and/or as a Homemaker-Home

Health Aide and shall not represent himself as a registered professional nurse or a homemaker-home health aide until such time as his license and/or certificate are reinstated. Any practice in this State prior to reinstatement shall constitute grounds for a charge of unlicensed practice.

7. The within order shall be subject to finalization by the Board at 5:00 p.m. on the thirtieth day following entry hereof unless Respondent requests a modification or dismissal of the above stated Findings of Fact or Conclusions of Law by:

a) Submitting a written request for modification or dismissal to George Hebert, Executive Director, 124 Halsey Street, Sixth Floor, P.O. Box 45010, Newark, New Jersey 07101.

b) Setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed.

c) Submitting any and all documents or other written evidence supporting Respondent's request for consideration and reasons therefor or offered in mitigation of penalty.

8. Any submissions will be reviewed by the Board and the Board will thereafter determine whether further proceedings are necessary. If no material discrepancies are raised through a supplemental submission during the thirty-day period, or if the Board is not persuaded that the submitted materials merit further consideration, a Final Order of Discipline will be

entered.

9. In the event that Respondent's submissions establish a need for further proceedings, including, but not limited to an evidentiary hearing, Respondent shall be notified with regard thereto. In the event that an evidentiary hearing is ordered, the preliminary findings of fact and conclusions of law contained herein may serve as notice of the factual and legal allegations in such proceeding. Further, in the event a hearing is held and upon review of the record, the Board shall not be limited to the findings, conclusions and sanctions stated herein.

10. In the event that the Board receives no written submission from Respondent within 30 days following filing of this Provisional Order of Discipline, without further Board review, the Provisional Order of Discipline shall automatically become the Final Order of Discipline. The box for Final Order of Discipline shall be checked, the Final Order of Discipline shall be filed, and copies shall be mailed to Respondent. Thereafter, Respondent's failure to comply with any sanction or penalty imposed by this Order shall be considered a violation of a Board Order in contravention of N.J.S.A. 45:1-21 (e) and (h)

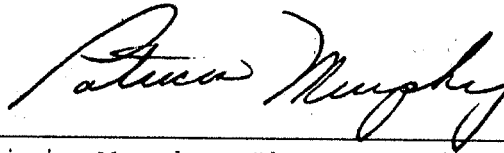


and N.J.A.C. 13:45C-1.4 and may subject Respondent to additional sanction and/or penalty.

11. The Board reserves the right to take further disciplinary action based upon any information received in the future regarding the results of the comprehensive mental health and substance abuse evaluation, or upon any new information received.

NEW JERSEY STATE BOARD OF NURSING

By:

A handwritten signature in cursive script, appearing to read "Patricia Murphy", written over a horizontal line.

Patricia Murphy, PhD, APN  
Board President